

## RESOLUTION NO. 5427

**A RESOLUTION IN SUPPORT OF THE CONTINUING COOPERATION AND PARTNERSHIP OF THE CITY OF KALISPELL [CITY] WITH KIDSPORTS AND THE MONTANA STATE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION [DNRC] IN THE FUTURE TREATMENT AND USES OF THE 134 ACRES OF PROPERTY IN SECTION 36 CURRENTLY LEASED BY THE CITY FROM DNRC AND UTILIZED BY KIDSPORTS.**

- WHEREAS,* the Montana State Department of Natural Resources and Conservation [DNRC] and the City of Kalispell [CITY] are parties to a Lease Agreement, effective May 7, 1997, whereby the City leased approximately 134 acres in the Southeast Quarter of Section 36, Township 29N, Range 22W, Flathead County, Montana; and
- WHEREAS,* the Lease Agreement provides that the Leased Property will be used by the CITY for youth athletic fields and supporting facilities; and
- WHEREAS,* The CITY and Kidsports, a Montana nonprofit corporation, are parties to a public/private partnership whereby Kidsports develops athletic fields on the Leased Property for use by local youth sports organizations; and
- WHEREAS,* the Leased Property presently contains 30 developed youth athletic fields, parking lots, five concession stand/restroom buildings, associated improvements, playgrounds, parks, and a cross country running course; and
- WHEREAS,* until recently DNRC maintained its Kalispell office on approximately twelve acres of land located along U.S. Highway 93 near the northeast corner of the Leased Property; and
- WHEREAS,* DNRC has relocated its Kalispell office to new facilities located along the west boundary of Section 36, and its former office site will be available to an interested party for development; and
- WHEREAS,* DNRC desires to increase the size of its former Kalispell office location by adding approximately twelve acres from Leased Property to improve its marketability to prospective developers; and
- WHEREAS,* the CITY and Kidsports desire to arrive at an agreement with DNRC that will perpetuate the existence of the youth sports complex on the Leased Property on terms that are in the best interest of the CITY and Kidsports and their respective constituents in exchange for removing a portion of the Leased Property from the Lease Agreement as described in these Recitals; and
- WHEREAS,* DNRC and Kidsports have agreed to pursue objectives such as those outlined in the letters of intent from DNRC and Kidsports dated April 27, 2010 and attached as Exhibit "A" and Exhibit "B" respectively.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

**SECTION I.** That the City Manager is hereby authorized to continue to negotiate with DNRC and Kidsports with the goal to perpetuate the existence of the youth sports complex on the Leased Property on terms that are in the best interest of the CITY.

**SECTION II.** That the City shall treat all development proposals for the subject real property consistent with its applicable ordinances, rules and regulations.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KALISPELL THIS 3RD DAY OF MAY, 2010.

A handwritten signature in black ink, appearing to read 'Tammi Fisher', written over a horizontal line.

Tammi Fisher  
Mayor

ATTEST:

A handwritten signature in black ink, appearing to read 'Judi Funk', written over a horizontal line.

Judi Funk  
Deputy City Clerk

EXHIBIT "A"

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION



BRIAN SCHWEITZER, GOVERNOR

1625 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-2074  
TELEFAX NUMBER (406) 444-2684

PO BOX 201601  
HELENA, MONTANA 59620-1601

April 27, 2010

The Hon. Mayor Fisher  
The Kalispell City Council  
c/o Jane Howington, City Manager  
City of Kalispell  
P.O. Box 1997  
Kalispell, MT 59901

Mr. Dan Johns, President  
Kidsports  
P. O. Box 1205  
Kalispell, MT 59903

RE: Letter of Intent, DNRC/Ballfield Task Force Project

Dear Mayor Fisher, City Councilors, and Chairman Johns:

The purpose of this letter is to verify Department of Natural Resources & Conservation's (DNRC) commitments to the City of Kalispell and Kidsports concerning the DNRC/Ballfield Task Force Project.

DNRC recognizes the following project goals:

- Benefit the Common Schools Trust beneficiaries by providing an opportunity for DNRC to combine its former agency site with additional acreage from the City leasehold to create an "enhanced parcel," with expanded commercial development opportunities and greater revenue.
- Achieve more permanency on the larger portion of the City's leased area, through the City and Kidsports cooperatively releasing a smaller portion of that leased area in support of this project.
- Arrive at a commonly beneficial site plan for the enhanced parcel through a joint planning process, with a developer/planner engaging the City of Kalispell, Kidsports, and DNRC, with the additional intent to maximize predictability to the extent practicable by law for the enhanced parcel's entitlement and development process.
- Provide a potentially profitable project for the anticipated developer, and offer assurance to that developer that the three parties are operating in sync toward common goals.

In order to complete the DNRC/Ballfield Task Force project, DNRC commits to the following:

- Submitting the enhanced property for the planning and leasing project phases;
- providing the right to entrance of the enhanced property for project participants;
- administering and directing a two-Request For Proposal (RFP) process (planning and leasing) for the enhanced site;
- managing the two RFP processes consistent with standard DNRC policies and procedures;
- engaging the DNRC/Ballfield Task Force members as the Project Coordination Committee anticipated for the Request for Proposal for Planning (RFP-P) process;
- securing a commercial appraisal for the enhanced site;
- amending the City's lease to reflect the plan when appropriate;
- if the City (with Kidsports' assistance) proposes to purchase a permanent easement on the leasehold property in connection with this project, basing the value as residential;
- if the City (with Kidsports' assistance) proposes to purchase a permanent easement on the leasehold property in connection with this project, offering a three-year option for that purchase;
- not diminish the land value or negate the planning and leasing efforts that the parties have agreed to; and,
- making a reasonable effort to work with the participating parties to develop alternatives to address unforeseen circumstances.

Recognizing that modifications may be necessary if unanticipated issues arise, DNRC also commits to administering a RFP-P process whereby a successful respondent (planner/developer) will work with designated representatives of all three parties to define planning alternatives for the site, analyze options, and eventually select a preferred plan, complete with the related entitlements application package. DNRC recognizes throughout that effort, that the City will continue to actively participate to the extent practicable by law in the planning and entitlement process for this project. DNRC will then administer a second Request for Proposal for Leasing (RFP-L). The RFP-L will go out for bid, with the condition that the successful RFP-P respondent ("planner/developer") will have the right to match the high bid for the RFP-L.

DNRC's commitments are predicated upon the City of Kalispell honoring its commitment in the Resolution dated May 3, 2010, and Kidsports' Letter of Intent dated April 27, 2010.

We greatly appreciate the collaborative spirit of both the City of Kalispell and Kidsports on this project.

Sincerely,



MARY SEXTON, Director

Department of Natural Resources & Conservation

cc: Robert Sandman, NWLO Area Manager  
Greg Poncin, KU Unit Manager  
Anne Shaw Moran, Chair, DNRC/Ballfield Task Force  
DNRC Real Estate Management Bureau

## EXHIBIT "B"



BUILDING THE DREAM TOGETHER FOR THE YOUTH OF FLATHEAD VALLEY

April 27, 2010

Mary Sexton, Director  
Montana Department of Natural Resources  
P. O. Box 201601  
Helena, MT 59620-1601

Jane Howington, City Manager  
City of Kalispell  
P. O. Box 1997  
Kalispell, MT 59903

Re: Letter of Intent – DNRC/Ballfield Task Force Project

Dear Ms. Sexton and Ms. Howington:

The purpose of this letter is to set forth Kidsports' commitments to the Montana Department of Natural Resources ("DNRC") and City of Kalispell ("City") with respect to the project commonly called the DNRC/Ballfield Task Force Project ("Project").

Kidsports recognizes that objectives of the Project include the following:

- Benefit the Common Schools Trust beneficiaries by the early conversion of approximately 12 acres of the Kidsports athletic complex to commercial uses which, when added to the real property previously occupied by DNRC, will accelerate revenues realized by the Trust. The area to be converted is located south of the previous DNRC site and north of Kidsports' softball fields.
- Promote development of the area under consideration that will benefit the City and its residents.
- Result in a permanent easement that fosters the permanency of the remainder of the Kidsports athletic complex.
- Provide a commercially profitable project for a developer.

In order to successfully achieve these objectives, Kidsports commits to the following:

- Participate as a member of a task force that will work cooperatively with DNRC, City and anticipated developer in design and development of the Project.
- Allow reasonable access to relevant portions of the leased area so long as the access does not interfere with scheduled uses.
- Agree to DNRC and City amending the lease to release approximately 12 acres of the current Kidsports site, which will leave approximately 122 acres unaltered. The release will include all improvements, infrastructure, design and planning within the area to be released in order to make those lands available for the Project, as well as foregoing future development of this area. In consideration of the release of those lands for future development, Kidsports will seek \$850,000.00 compensation from future developers and modification of the future usage arrangement for the balance of the Kidsports site, but it will not seek compensation from DNRC. The terms of payment are negotiable.
- Participate as necessary toward achieving a permanent easement or acceptable alternative on the balance of the Kidsports site, acknowledging that DNRC will accept residential appraised values and payment over a three year period for a permanent easement.
- Kidsports will not intentionally take any action that diminishes the value of the 12 acres during this process or obstructs the planning process.
- Work with the parties to develop alternatives that address unforeseen circumstances.

Kidsports recognizes that DNRC intends a two-phases planning/development process and commits to cooperatively participating in the process. Kidsports appreciates the collaborative spirit of DNRC and City to achieve these objectives.

Sincerely,



Daniel D. Johns  
President

c. Robert Sandman